

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : Docket # 22cr352  
  
Plaintiff, :  
  
- against - :  
  
SMITH, : New York, New York  
June 28, 2022  
  
Defendant. :

----- :

PROCEEDINGS BEFORE  
THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE  
BY: ADAM HOBSON, ESQ.  
RUSHMI BHASKARAN, ESQ.  
One St. Andrew's Plaza  
New York, New York 10007

For Defendant: LAW OFFICE OF ANTHONY CECUTTI  
BY: ANTHONY CECUTTI, ESQ.  
217 Broadway, Suite 707  
New York, New York 10007

Transcription Service: Carole Ludwig, *Transcription Services*  
155 East Fourth Street #3C  
New York, New York 10009  
Phone: (212) 420-0771  
Email: [Transcription420@aol.com](mailto:Transcription420@aol.com)

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INDEX

E X A M I N A T I O N S

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re- Direct</u>	<u>Re- Cross</u>
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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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None

PROCEEDINGS

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THE CLERK: This is in the matter of US versus Sequan Jackson, docket number 22cr352. Counsel, please state your appearance for the record starting with the Government.

MR. ADAM HOBSON: Good afternoon, Your Honor, Adam Hobson and Rushmi Bhaskaran for the Government

MR. ANTHONY CECUTTI: Good afternoon, Your Honor, Anthony Cecutti for Sequan Jackson.

HONORABLE STEWART D. AARON (THE COURT): Good afternoon. May I please have the date and time of arrest?

MR. HOBSON: Yes, the defendant was arrested this morning at approximately 6 a.m.

THE COURT: Mr. Jackson, I am Magistrate Judge Aaron. You are here because you're charged with certain crimes by an indictment. The purpose of today's proceeding is to advise you of certain rights you have, inform you of the charges against you, consider whether counsel should be appointed for you and decide under what conditions, if any, you should be released pending trial.

Now to explain certain constitutional rights that you have. You have the right to remain silent, you are not required to make any statements. Even if you're already made statements to the authorities you do not need to make any further statements. Any statements you do

1  
2 make can be used against you.

3           You have the right to be released either  
4 conditionally or unconditionally pending trial unless I  
5 find there are no conditions that would reasonably assure  
6 your presence at future court appearances and the safety  
7 of the community.

8           If you are not a United States citizen you have  
9 the right to request that a Government attorney or law  
10 enforcement official notify a consular officer from your  
11 country of origin that you've been arrested. In some cases  
12 a treaty or other agreement may require the United States  
13 Government to give that notice whether you request it or  
14 not.

15           You have the right to be represented by an  
16 attorney during all court proceedings, including this one,  
17 and during all questioning by the authorities. You have  
18 the right to hire your own attorney. If you cannot afford  
19 an attorney I will appoint one today to represent you.

20           Do you understand your rights as I've just  
21 explained them?

22           THE DEFENDANT: Yes.

23           THE COURT: All right. So I've been provided a  
24 financial affidavit that bears your signature that  
25 indicates you wish for me to appoint Mr. Cecutti as your

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PROCEEDINGS

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counsel, am I correct?

THE DEFENDANT: Yes.

THE COURT: If I could ask you to please raise your right hand. Do you swear that the contents of this affidavit are true and correct so help you God?

THE DEFENDANT: yes.

THE COURT: All right, based upon the contents of the affidavit I am approving the appointment of Mr. Cecutti as your counsel and I've signed the document to reflect that.

The document that contains the charges against you is an indictment issued by a grand jury here in the Southern District of New York. Mr. Cecutti, have you had an opportunity to review the charges in the indictment with your client?

MR. CECUTTI: We have had that opportunity, Your Honor, and discussed the charges, as well.

THE COURT: And do you waive its public reading?

MR. CECUTTI: Yes, Your Honor.

THE COURT: And Judge Rakoff has referred this matter to me for purposes of arraignment, what plea does your client enter?

MR. CECUTTI: Not guilty.

PROCEEDINGS

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THE COURT: All right, I'm going to indicate on the disposition sheet that the defendant's been arraigned and enters a plea of not guilty.

Because this may be considered the first scheduled appearance in this matter, I direct the prosecution to deal with its obligation under *Brady against Maryland and its Progeny* to disclose to the defense all information, whether admissible or not, that is favorable to the defendant, material either to guilt or to punishment and known to the prosecution. Possible consequences for noncompliance may include dismissal of individual charges or the entire case, exclusion of evidence or professional discipline or court sanctions on the attorneys responsible. I will be entering a written order more fully describing this obligation and the possible consequence of failing to meet it and I direct the prosecution to review and to comply with that order. Does the prosecution confirm that it understands its obligations and will fulfill them?

MR. HOBSON: yes, Your Honor.

THE COURT: All right, I'll next hear from the Government with respect to its position on bail, detention or release.

MR. HOBSON: Your Honor, the Government seeks detention.

PROCEEDINGS

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THE COURT: And what are your intentions in that regard, Mr. Cecutti?

MR. CECUTTI: To make an application for release, Your Honor.

THE COURT: All right, so the way we're going to proceed is I'll first hear from Mr. Hobson on behalf of the Government for his reasons seeking detention and then I'll hear from Mr. Cecutti.

MR. HOBSON: Your Honor, the Governments seeks detention both based on danger to the community and risk of flight. I know the Court is familiar with this enterprise and the violent nature of the enterprise by now, it's, of course, set forth in the bail letter that's before the Court which the defense and defense counsel has, so I won't repeat all those arguments here, but I will focus on this defendant's particular role in the enterprise.

This defendant is probably, well is of the defendants the Court has seen today the highest ranking member of the enterprise. He's, we would characterize him as the number two. He was Jatiek Smith's lieutenant, his right-hand man, he ran the operation in Jatiek's absence, he was intimately involved in all the aspects of this operation. In fact, it was the defendant who was, who had been working at

1  
2 First Response when First Response was a legitimate company  
3 and then brought Tiek into the company. The two of them then  
4 worked together to take control of the company and to exert,  
5 use that company to exert control over the industry.

6           The wire calls, the witness statements and other  
7 phone interceptions in this case have shown the defendant  
8 directing the rotation system, running the operation in  
9 general and giving orders to the other defendants who the  
10 Court has seen today such as Mr. McGee, Mr. Small, Mr.  
11 Pereira.

12           He's been, he orders violence. We talked about the  
13 kind of violence that this crew carries out. The defendant,  
14 himself, was one of the ones who orchestrated that violence  
15 and ordered others to commit violence. One of the incidents  
16 that we spoke about with Mr. Dore was an incident in October  
17 of 2021 in which Mr. Dore and other members of First  
18 Response assaulted a construction worker at one of the jobs  
19 that First Response was overseeing.

20           And we know this because we were up on Mr.  
21 Jackson's phone at the time on a wire and you could  
22 hear him giving directions to Mr. Dore to go and  
23 assault this construction worker. And you could hear  
24 Mr. Dore taking him there in real time as Mr. Jackson  
25 continued to give directions. We know that in that



PROCEEDINGS

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1 assault not only was this man punched while, you know,  
2 innocently working at a house, doing his job at this  
3 fire sight, not only was this man punched but his ID  
4 card was stolen and they took a picture of it to get  
5 his address, an obvious threat to this man not to, not  
6 to mess with them.  
7

8           There's also a video circulating of Mr.  
9 Jackson, himself, carrying out an assault while  
10 wearing his red First Response Outfit and attacking  
11 another individual.

12           THE COURT: When was that?

13           MR. HOBSON: The video was found on a phone in  
14 September of 2020, the video was undated as far as I  
15 know. So we don't have much more information about the  
16 motive of that particular assault but it is this  
17 defendant carrying out an assault.

18           THE COURT: And you mentioned something about  
19 what he was wearing?

20           MR. HOBSON: He was wearing a red first  
21 response outfit similar to the one he's wearing right  
22 now.

23           THE COURT: Got it.

24           MR. HOBSON: We've noted that the First  
25 Response enterprise has also been involved in witness,

1 PROCEEDINGS 10

2 witness tampering and threats against witnesses,  
3 especially after November, 2021, when they became  
4 aware of this investigation. The defendant has been  
5 part of that --

6 THE COURT: How did they become aware of the  
7 investigation?

8 MR. HOBSON: Your Honor, I believe that they  
9 learned that people were being subpoenaed by the, by  
10 the Federal Government. Obviously, this investigation  
11 involved talking to numerous members of the fire  
12 mitigation industry and the public adjuster community  
13 and it appears that word got out. It's pretty  
14 undisputed that they knew that they were being  
15 investigated and yet carried on their crimes while  
16 also increasing their threats against others.

17 One thing that I know is not part of the  
18 information that Pretrial had in making their  
19 recommendation is what happened today at this  
20 defendant's arrest. This defendant was arrested at the home  
21 he now lives in which, as Ms. Bhaskaran previously is a home  
22 owned by co-defendant Octavio Peralta and, until a few weeks  
23 ago, primarily occupied by Jatiek Smith. Under a, when we  
24 attempted to arrest Mr. Jackson, he tried to flee out the  
25 window which I think alone shows a determination to flee and

1  
2 a risk of flight. Under his bed was a safe which contained  
3 two firearms, one was loaded and one had an extended  
4 magazine next to the firearm. His passport was also in that  
5 safe. Obviously, we've talked about the evidence the members  
6 of First Response had guns, we've talked about the other  
7 guns that were found in the First Response offices and we've  
8 talked about how some of these assaults First Response  
9 members were seen with guns, this evidence today shows that  
10 Mr. Jackson, himself, owned, personally had firearms. Of  
11 course, he was not legally allowed to have those firearms  
12 because he has a long list of felony convictions, including  
13 very serious felonies such as assault, armed robbery and  
14 weapons possession.

15 His rap sheet goes back to age 16, it includes  
16 bench warrants which is a further reason to worry about his  
17 risk of nonappearance. And I'll note that just a few weeks  
18 ago he was arrested for grand larceny, that arrest occurred  
19 along with co-defendant Jatiek Smith. My understanding is  
20 both of them were arrested while attempting to steal several  
21 thousand dollars worth of merchandise from a Home Depot  
22 store.

23 Your Honor, given this defendant's high rank in  
24 the enterprise, given his involvement in the violence, given  
25 his attempts to flee today, given his demonstration

1 PROCEEDINGS 12

2 possession of firearms, given his long history of breaking  
3 the law we submit that detention is appropriate here.

4 THE COURT: Let me hear from you, please, Mr.  
5 Cecutti.

6 MR. CECUTTI: Thank you, Your Honor. Obviously,  
7 today we are not here to try the case. I don't have  
8 any discovery, these are allegations, and with respect  
9 to the content of intercepted calls I don't believe  
10 the Court can rely on that unless I have been provided  
11 with transcripts or the actual audio recordings,  
12 themselves.

13 The question before the Court is whether or  
14 not there are a set of conditions, and the Court is  
15 well aware of that crucial question, and Pretrial  
16 Services has addressed that question, they did a  
17 thorough investigation. They obviously interviewed Mr.  
18 Jackson and they also interviewed his girlfriend who  
19 is also present and she's raising her hand. And they  
20 made a determination that despite the, the nature of  
21 the charges and his criminal history and other things  
22 that the Government has pointed out to Your Honor this  
23 afternoon and this evening that he is a candidate for  
24 release and an individual that is bailable pursuant to  
25 a robust set of conditions which are before the Court.

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## PROCEEDINGS

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And we would certainly be onboard with the conditions that Pretrial has recommended and I'll highlight just a few. A bond cosigned by three financially responsible persons. We have in Mr. Jackson's family a mother, an aunt, a girlfriend and perhaps other family members that fit that criteria. His aunt does have a property in Virginia that could also be included in any package. Another highlight would be that he would be on home detention enforced by location monitoring.

This is critical, Your Honor, that Mr. Jackson be released and here's the bottom line. Mr. Jackson has two children, they're both young, a nine year old and a two year old. His girlfriend is unemployed and that's because approximately a week and a half ago she was shot and she's recovering and is unable to go back to work. He was also present and was injured as well but he's been the primary person taking care of the family. And the realty of this, Your Honor, is that if he is detained there is no income for the family. And Mr. Jackson not only supports now his girlfriend and two young children, he also supports her mother as well. So there's several people that he is financially responsible for himself and he will lose everything if

1  
2 he is detained.

3           He is presumed innocent. Obviously the  
4 allegations here are serious but, again, we're not  
5 here to try the case. I haven't reviewed any of the  
6 evidence to support what the Government has said in  
7 their letter or this afternoon and this evening with  
8 respect to the case against Mr. Jackson.

9           He is 33 years old, he's a longtime resident  
10 of Staten Island. He was born in the Bronx and he was  
11 raised in Staten Island. He has other family that  
12 lives in Staten Island that are in close proximity to  
13 him. He has been gainfully employed since the age of  
14 21. The Government pointed out that he has a lengthy  
15 criminal history and I think it's important to, to  
16 examine the criminal history. He did have some  
17 trouble when he was a teenager, when he was 16-17  
18 years old, he was released after serving 3-1/2 years  
19 at the age of 21, and I think it's important to look at  
20 his conduct from age 21 to 33 when he was released.

21           And during that time period he's had two  
22 contacts with the criminal legal system, one that included  
23 a misdemeanor assault and in that matter he appeared every  
24 single time he was required to, no bench warrants, and the  
25 outcome of that case was a conditional discharge in which

1  
2 he had to abide by an order of protection. He did so  
3 during the pendency of that case and after that case.

4           The Government pointed out that he was recently  
5 arrested on June 4<sup>th</sup>. He contests his guilt, that is a  
6 false arrest, Home Depot is a place that he goes to quite  
7 frequently and I think it's important to note that he was  
8 given a desk appearance ticket in that case. In other  
9 words, he was arrested, he was brought to a precinct and  
10 law enforcement made a determination that he could be  
11 released and come back to Court for an arraignment and any  
12 subsequent appearances, and that's exactly what he has  
13 done.

14           So again, Your Honor, from the age of 21 to 33  
15 he has been gainfully employed, he's worked  
16 continuously, he no longer works for First Response, I  
17 think that is also very important, he works for a  
18 company that he started called Juniors Board Up and  
19 that is the way that he supports himself and supports  
20 his family.

21           I understand that this morning there was a  
22 search done pursuant to his arrest and that there were  
23 guns that were recovered. Those guns were found in the  
24 residence, they were, however, found inside a locked  
25 safe and I think there is dispute whether or not they

1 PROCEEDINGS 16

2 were loaded but the bottom line is they were in a  
3 locked safe and Mr. Jackson and, again, his girlfriend  
4 were a victim of a shooting, he didn't have them for  
5 any intention of doing harm to anybody else, but he  
6 had moved into this residence, new home, new  
7 neighborhood in fear of any kind of retaliation  
8 related to this shooting, and kept them in a safe  
9 manner.

10 He did not flee, he never tried to flee, what  
11 happened was he --

12 THE COURT: Isn't it unlawful for him to  
13 possess those firearms since he's a, has a felony  
14 conviction?

15 MR. CECUTTI: I don't know if I'm prepared to  
16 say that, Your Honor, but I understand that would be  
17 an issue that the Court would have concern about so  
18 I'm trying to address why, in fact, he may have had  
19 them.

20 THE COURT: Okay.

21 MR. CECUTTI: Law enforcement has claimed that  
22 he attempted to flee, but he never made an attempt to  
23 flee. He was startled by the commotion at 6 a.m. of  
24 law enforcement trying to execute an arrest warrant, I  
25 believe a search warrant at the residence. He pushed a



PROCEEDINGS

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1 mesh gate or a mesh portion of a window to try and  
2 figure out what was going on. If law enforcement  
3 interpret that as he was trying to flee, he was not  
4 attempting to flee, he was merely trying to understand  
5 what was happening at 6:00 this morning when there was  
6 a lot of commotion occurring as a result of the  
7 warrant being executed.

8  
9 Again, Your Honor, I don't think I can stress  
10 enough Mr. Jackson is the sole provider for his  
11 family, we have two young kids, we do have financially  
12 responsible persons that can cosign the bond, we do  
13 have a property and if he were to be detained  
14 throughout the pendency of this case there would be  
15 disastrous consequences for other people that have not  
16 been accused of anything in terms of wrongdoing,  
17 especially the children here.

18 So I think that Pretrial Services got it right  
19 and they do recommend a robust set of conditions and  
20 those conditions in my view, Your Honor, will  
21 reasonably assure that he will be in court every  
22 single time he's supposed to be here and that there  
23 will not be any safety concerns for the community.

24 THE COURT: Mr. Hobson?

25 MR. HOBSON: Yes, Your Honor, I'd like to

1 address some of those arguments. First of all, and  
2 we've heard this from some other defendants, too, this  
3 idea that people no longer work at First Response. I  
4 want to clarify that First Response was a company, a  
5 legitimate company, but the defendant and his co-  
6 defendants took it over. And the First Response that's  
7 alleged in the indictment is the First Response enterprise  
8 which includes this group of people that operated under,  
9 under the name of First Response at times but includes much  
10 more than just employees of First Response. And, in fact,  
11 Juniors Board Up, the company that this defendant claims to  
12 work for, is part of that enterprise and part of the scheme.

14 Juniors Board Up is a board up company or they,  
15 the EMS company will hire to board up the fire after fire  
16 damage, and what the First Response enterprise does is force  
17 other companies to use this defendant's company, Juniors  
18 Board Up Company, as a way to funnel payments in and enrich  
19 the enterprise. So it is part and parcel of this overall  
20 scheme of extortion that they're carrying out.

21 The shooting that occurred a few weeks ago and the  
22 purported explanation that that's why he had the guns, I  
23 want to give the Court a little more information about that  
24 shooting because we actually have some information  
25 about the shooting. It occurred I believe on the

1 evening of June 19<sup>th</sup> which was Father's Day and it  
2 occurred at Jatiek Smith's house. Jatiek Smith was having a  
3 party which included the defendant and several other members  
4 of the First Response enterprise. Our understanding of what  
5 happened is that fireworks went off on the sidewalk, someone  
6 thought he was being shot at and had a gun and fired his  
7 gun. The person he fired the gun at thought he was being  
8 shot at and fired his gun. This was friendly fire between  
9 two people at the party shooting and I believe that it's  
10 correct that Mr. Jackson's girlfriend was hit in the  
11 process. But there's no reason to think that this incident  
12 would create an ongoing threat that would require him to  
13 have guns, what I think it shows is that First Response and  
14 the defendant and his co-defendants are all carrying guns,  
15 they're all at parties where, they're at a party where  
16 multiple people are having guns and just bring them out and  
17 start shooting at each other.

18  
19 THE COURT: So Mr. Cecutti suggested it was a  
20 dispute as to whether the guns were loaded, were the guns,  
21 were either of the guns located loaded?

22 MR. HOBSON: One gun was loaded, one had an extra-  
23 long magazine next to the gun so that it could easily be  
24 loaded. There's no dispute that the guns were loaded.  
25 There's also I don't think --

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## PROCEEDINGS

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THE COURT: Mr. Cecutti, do you dispute that, I mean the Government has an obligation to be truthful to the Court, they're not allowed to misrepresent or they will be fired and brought up on ethics charges, so do you dispute those guns were loaded?

MR. CECUTTI: I think the point that I'm trying to make, Your Honor, is that those guns were in a locked box --

THE COURT: Okay, but loaded and there was a magazine next to another one?

MR. CECUTTI: Right.

THE COURT: Okay.

MR. CECUTTI: And so the, so the --

THE COURT: So you're not disputing it? I heard your argument but you had suggested there was a dispute as to whether the guns were loaded, unless I misheard, we can't go back and get the transcript.

MR. CECUTTI: My client is not certain whether a gun was loaded, he does not believe so. But if law enforcement sees the weapons, they open the safe, we're not contesting what their ultimate finding was.

THE COURT: Okay.

MR. CECUTTI: But my point is --

THE COURT: I got your point, he had them to

1  
2 protect himself and his girlfriend.

3 MR. CECUTTI: And kept them in a safe manner,  
4 that's the point.

5 THE COURT: Understood. Sorry for  
6 interrupting you, Mr. Hobson.

7 MR. HOBSON: And guns that he certainly was  
8 not legally allowed to have given his numerous prior  
9 felony convictions.

10 The one thing that I failed to mention earlier  
11 was that the defendant is a member of The Bloods gang  
12 and as are many of his co-defendants here, which is I  
13 think another reason for concern about his danger.  
14 And, in fact, Bloods literature was found in the  
15 house. The Bloods, like many formal street gangs, have  
16 official codes, sort of a bible of the rules and the  
17 sayings and one of those was found in the defendant's  
18 house.

19 As for Pretrial's recommendation, I would just  
20 respectfully note that there are a number of factors that  
21 the Court considers and that we consider in making our  
22 recommendations that Pretrial I believe does not consider,  
23 one of those is the strength of the evidence here. And the  
24 strength of the evidence is strong, it includes numerous  
25 witness statements, it includes wire transcripts of this

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## PROCEEDINGS

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defendant, it includes phones that we've seized which show communications between this defendant and others, it is a very, very strong case that has been built after over a year of investigation.

In addition, Pretrial did not have evidence of what was found in the house today including the two guns. Pretrial did not have evidence of his attempt to escape today. And I would submit that my understanding of what happened is that the defendant had pushed a hole in this screen of the window and he was trying to get out of it. I don't think that's consistent with looking out the window and trying to see what's going on. So I think it is a, it is a reasonable assumption that he was trying to flee. So Pretrial did not have all of this evidence when making their recommendation. And I would submit that the recommendation is simply wrong here. The risk of danger is too great, the risk of flight is too great.

THE COURT: All right, I'm going to take a brief recess, I'll ask Pretrial Services to come with me in the back, I'll be out briefly.

THE CLERK: All rise.

(PAUSE IN PROCEEDING)

THE COURT: Mr. Jackson, I'm required under the law to release you either with or without conditions imposed

1 unless I determine that there are no conditions that will  
2 reasonably assure your appearance in court as required and  
3 the safety of the community. In making a bail determination  
4 I'm required to consider the following factors, the nature  
5 and circumstance of the offense charged, the weight of the  
6 evidence against you, your history and characteristics and  
7 the nature and seriousness of the danger to any person  
8 or the community that would be posed by your release.  
9 The Government ultimately bears the burden of  
10 establishing by clear and convincing evidence that you  
11 are a danger to the community or that you, by a  
12 preponderance of the evidence, that you were a flight  
13 risk.  
14

15 I've heard arguments of counsel, I've  
16 obviously read the Pretrial Services Report, but I do  
17 find the Government has met its burden in this case  
18 for several reasons. I think the evidence is strong,  
19 hat the wiretaps, your high rank in the enterprise,  
20 something that Pretrial Services doesn't, they don't  
21 consider the allegations of the indictment, but most  
22 importantly, loaded guns in circumstances where you're  
23 a felon, that's a separate crime that can be  
24 separately charged. So I do find that there are no  
25 conditions I can impose that will reasonably assure

1 the safety of the community.

2           This is Judge Rakoff's case and there's a  
3 conference before him on July the 5<sup>th</sup> and, Mr. Cecutti,  
4 you are obviously free to appeal to Judge Rakoff at  
5 any time prior to July the 5<sup>th</sup> or on July the 5<sup>th</sup> if  
6 you believe that my determination is erroneous. So  
7 I'm going to order the, Mr. Jackson detained. There's  
8 a conference before Judge Rakoff on July the 5<sup>th</sup> at  
9 3:15 and pursuant to prior proceedings we've had, time  
10 is excluded under the Speedy Trial Act until July the  
11 5<sup>th</sup>.

12           Is there anything else that either side would  
13 like to raise?

14           MR. HOBSON: No, Your Honor.

15           MR. CECUTTI: No, Your Honor, thank you.

16           THE COURT: All right, thank you, this matter  
17 is adjourned.

18           (Whereupon, the matter is adjourned.)

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C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the case of United States of America versus Smith, Docket #22cr352, was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: August 16, 2022